

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Senator RICHARD BLUMENTHAL, *et al.*,

Plaintiffs,

v.

MATTHEW G. WHITAKER, in his
official capacity, *et al.*,

Defendants.

No. 1:18-cv-02664

**DEFENDANTS' MOTION FOR A STAY OF PROCEEDINGS
IN LIGHT OF LAPSE OF APPROPRIATIONS**

Defendants Donald J. Trump, in his official capacity as the President of the United States, and Matthew G. Whitaker, in his official capacity as Acting Attorney General, hereby move for a stay of proceedings, including their deadline to answer or otherwise respond to the Complaint, in the above-captioned case. In support of this motion, Defendants state as follows:

1. Plaintiffs are three Senators who brought this suit alleging that the President's appointment of Mr. Whitaker as Acting Attorney General violates the Appointments Clause of the Constitution, U.S. Const. art. II, § 2, cl. 2. The U.S. Attorney for the District of Columbia was served on November 26, 2018, and Defendants' answer or other response to the Complaint is currently due on January 25, 2018. *See* Fed. R. Civ. P. 12(a)(2).

2. At the end of the day on December 21, 2018, the appropriations act that had been funding the Department of Justice expired and appropriations to the Department lapsed. The Department does not know when funding will be restored by Congress.

3. Absent an appropriation, Department of Justice attorneys are prohibited from working, even on a voluntary basis, except in very limited circumstances, including “emergencies involving the safety of human life or the protection of property.” 31 U.S.C. § 1342.

4. Undersigned counsel for the Department of Justice therefore requests a stay of proceedings in this case, including the deadline of January 25, 2019 to respond to the Complaint, until Congress has restored appropriations to the Department.

5. If this motion for a stay is granted, undersigned counsel will notify the Court as soon as Congress has appropriated funds for the Department. Defendants request that, at that point, all current deadlines for the parties be extended commensurate with the duration of the lapse in appropriations.

6. Undersigned counsel has conferred with counsel for Plaintiffs, and counsel for Plaintiffs indicate that Plaintiffs oppose this motion.

Therefore, although we greatly regret any disruption caused to the Court and the other litigants, Defendants hereby move for a stay of proceedings in this case, including the deadline to answer or otherwise respond to the Complaint, until Department of Justice attorneys are permitted to resume their usual civil litigation functions.

Dated: January 11, 2019

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

BRETT A. SHUMATE
Deputy Assistant Attorney General

JENNIFER D. RICKETTS
Director, Federal Programs Branch

CHRISTOPHER R. HALL
Assistant Branch Director

/s/ Jean Lin

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CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2019, I electronically filed a copy of the foregoing. Notice of this filing will be sent via email to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF System.

/s/ Jean Lin
JEAN LIN

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[PROPOSED] ORDER

Upon consideration of Defendants' Motion for A Stay of Proceedings in Light of Lapse of Appropriations, and for good cause shown, it is hereby ORDERED that

The Motion for A Stay of Proceedings is GRANTED; and it is further ORDERED that

This case is STAYED.

SO ORDERED.

DATED:

HON. RANDOLPH D. MOSS
United States District Judge